

EXHIBIT 2

From: MillerG@gtlaw.com
To: airpino@irpinolaw.com; SMS@spanglaw.com; CT16-19TPPopioidbwtteam@simmonsfirm.com; Kaspar.stoffelmay@bartlit-beck.com; kate.swift@bartlitbeck.com; matthew.ford@bartlitbeck.com; edelinsky@zuckerman.com; smiller@zuckerman.com; phynes@zuckerman.com; tmtbacchi@jonesday.com; izhou@jonesday.com; tbenedetto@dugan-lawfirm.com; jdugan@dugan-lawfirm.com; lfitzpatrick@simmonsfirm.com; EXT-OpioidsTPPDefendants@groups.jonesday.com; tkracht@huntonAK.com; tkracht@hunton.com; CITERAF@gtlaw.com; creiser@axinn.com; nduffee@axinn.com; evung@axinn.com; doakes@axinn.com; jellison@hpm.com; [Burman, David J. \(SEA\)](mailto:Burman, David J. (SEA)); [Roberts, Tyler \(SEA\)](mailto:Roberts, Tyler (SEA)); gobrien@cavitch.com; rice@bscr-law.com; rice@bakersterchi.com; jmatthews@foley.com; kkoski@foley.com; Kara.Kapke@btlaw.com; Meredith.White@btlaw.com; Gregory.Franklin@gtlaw.com; monica.brownewell@btlaw.com; amy.fiterman@faegredrinker.com; rory.collins@faegredrinker.com; kerry.bundy@faegredrinker.com; terry.henry@blankrome.com; fiona.steele@blankrome.com; toliver@carrallison.com; dplunkett@mcglinchey.com; tbyrd@mcglinchey.com; maria.durant@hoganlovells.com; michael.connelly@troutman.com; hyung.steele@troutman.com; adam.levin@hoganlovells.com; rebecca.mandel@hoganlovells.com; lauren.colton@hoganlovells.com; Ronda.Harvey@Steptoe-Johnson.com; Ashley.Odell@Steptoe-Johnson.com; Chantale.fiebig@weil.com; Daniel.nadratowski@weil.com; paul.lafata@dechert.com; DAntullis@grdlaw.com; pdoamaral@lchb.com; ddrachler@lchb.com; ecabraser@lchb.com; PWeinberger@spanglaw.com; esi-opioids@quinnemanuel.com; Optum.Opioid.Team@alston.com; PBM@listserv.motleyrice.com; tfumerton@jonesday.com
Cc: david@davidcohen.com
Subject: RE: American Federation Consolidated and Amended Third Party Payor Class Action Complaint
Date: Wednesday, October 2, 2024 3:56:45 PM
Attachments: [image001.png](#)
[image002.png](#)

Counsel:

I am writing on behalf of the undersigned regarding your request that our clients provide redactions to the proposed amended complaint you first circulated on September 20 (the “*American Federation Case*”). The proposed amended complaint names for the first time numerous proposed defendants—including the undersigned—against whom plaintiff American Federation of State, County and Municipal Employees District Council 37 Health & Security Plan and other Third Party Payors (“Plaintiffs”) never previously filed a complaint, and who did not participate in previous TPP-related conferences.

First, the undersigned are not “parties” to the *American Federation Case* and our response to your email is subject to and expressly preserving all rights to object and assert appropriate defenses, including but not limited to, challenging service, jurisdiction and venue, if any one of us ultimately does become a party to the Case. The procedure for seeking final amendments to complaints to add defendants was set forth in the Court’s May 23, 2024 order (Dkt. 5455). Second, we understand your email to indicate that Plaintiffs intend to file a version of the complaint on the docket. However, there is no court order granting leave to add the undersigned as defendants. It is our position that any attempt to add the undersigned as defendants is improper. Nor do we believe it is necessary or appropriate to provide proposed redactions under the circumstances.

We have copied Special Master Cohen on this correspondence to solicit his guidance at the appropriate time (mindful that it is Rosh Hashanah) on the appropriate next procedural steps to address Plaintiffs’ proposed filing, which we contest.

Ahold Delhaize Entities
Albertsons Companies, Inc.
Alvogen, Inc.

Aurobindo Pharma USA, Inc.
Aurolife Pharma LLC.
Costco Wholesale Corporation
Indivior Entities
The Kroger Co.
Kroger Limited Partnership I
Kroger Limited Partnership II
KVK-Tech, Inc.
Lupin Pharmaceuticals, Inc.
Mylan Pharmaceuticals Inc.
Mylan Technologies Inc.
Nesher Pharmaceuticals (USA) LLC
Publix Super Markets, Inc.
Southeastern Grocers, Inc.
Sun Pharmaceutical Industries, Inc.
Target Corporation
Specially appearing Tris Pharma Inc.
Viatris Inc.
Winn-Dixie Stores, Inc.
Winn-Dixie Logistics, LLC (f/k/a Winn-Dixie Logistics, Inc.)
Zydus Pharmaceuticals (USA) Inc.

Gretchen N. Miller

Shareholder

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From: Anthony Irpino <airpino@irpinolaw.com>
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Subject: RE: American Federation Consolidated and Amended Third Party Payor Class Action Complaint

[EXTERNAL]

Counsel for Defendants and Related Entities:

Consistent with Special Master Cohen's "Directions Regarding Filing of Briefs Under Seal" (ECF No. 1719), and the Order Amending Procedures Regarding Redactions and Filing of Briefs Under Seal (ECF No. 1813) -- both of which are attached here -- the Plaintiffs' Executive Committee ("PEC") in the above-referenced litigation hereby provides notice that all parties need to provide the PEC, in writing, with any of their proposed redactions to the September 20, 2024 Consolidated and Amended Third Party Payor Class Action Complaint and Jury Demand ("TPP Class Complaint"), attached again for convenience. Please be advised that written notice of any such requested redaction: a) should be sent to the PEC listserv as well as to me (airpino@irpinolaw.com) and my law partner Pearl Robertson (probertson@irpinolaw.com) by **October 4, 2024**, and b) needs to comply with ECF Nos. 1719 & 1813, as well as with prior rulings and orders regarding redacting/sealing judicial records.

ECF No. 1719 normally provides three business days to inform the PEC "whether [you] request any redaction or filing under seal" and, if so, to provide the notice information required by paragraph 3 of ECF No. 1719 ("[t]he notice will indicate any proposed redactions, provide a "compelling reason" for overcoming the presumption in favor of disclosure, and demonstrate that the proposed redaction or seal is 'narrowly tailored to serve that reason.'"). However, the PEC has agreed to extend the deadline for providing notice of proposed redactions to **October 4, 2024**, relative to the TPP Class Complaint.

Please note that any requests for redactions must be consistent with the Court's (and the Sixth

Circuit's) heightened standards for sealing/redacting judicial records. As outlined on p. 3, fn 4 of ECF No. 1719: "Information that is considered 'business confidential' but that is not a bona fide trade secret does not qualify for redaction. See *Kondash v. Kia Motors America, Inc.*, 767 Fed. Appx. 635, 639 (6th Cir. 2019) ('The fact that a document will reveal competitively-sensitive financial and negotiating information is not an adequate justification for sealing—rather, the proponent[] of closure bears the burden of showing that disclosure will work a clearly defined and serious injury.')."

Other orders regarding confidentiality designations have been issued, and should inform any analysis and determination made regarding whether to request any redaction/sealing. See e.g., ECF Nos. 2688, 2909, 2984, 3344. For example, the *Kondash* test referred to by the Special Master (on p. 3, fn 4) in ECF No. 1719) "requires 'three things: (1) a compelling interest in sealing the records; (2) that the interest in sealing outweighs the public's interest in accessing the records; and (3) that the request is narrowly tailored.' *Kondash v. Kia Motors Am., Inc.*, 767 Fed. App'x at 637 (citing *Shane Grp., Inc. v. Blue Cross Blue Shield*, 825 F.3d 299, 305 (6th Cir. 2016)). The *Kondash* test presents a heavy burden for a party seeking to keep information under seal." See ECF No. 2909 at 2.

Additionally, ECF No. 1813 further outlines that "[i]f the Court (or the Special Master): (1) is asked repeatedly to resolve disputes over whether information designated for redaction or sealing was appropriate; and (2) repeatedly concludes the designation was improper; then (3) the designating party will lose the right to make future confidentiality designations in later-filed documents, and/or the Court will simply lift all of that party's redaction designations." Thus, please be certain to take these guidelines into account for any redactions you consider.

Finally, please be advised that the attached and previously served TPP Class Complaint and contains the same or very similar information as that contained in the four supplemental and amended allegations to be added to the amended complaints (TPP Amendments) filed under seal by the PEC and the TPP Bellwether Plaintiffs on February 15, 2024. The primary difference now is the information relating to the newly added defendants. The PEC and previously named defendants as well as other entities have already addressed proposed redactions over much if not all of this material (other than that specific to the new defendants) when addressing the TPP Amendments. As such, the PEC believes that there is nothing further/new to analyze or redact for defendants and entities with which we already addressed redactions – in February 2024 – relative to the TPP Amendments. That said, all defendants and entities, whether new or not, have the opportunity to propose redactions to the PEC (relative to the TPP Class Complaint), as outlined above.

Hope everyone has a good weekend!

Anthony D. Irpino
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From: Sheila Schebek <SMS@spanglaw.com>
Sent: Friday, September 20, 2024 11:32 AM
To: david@specialmaster.law; carrie_roush@ohnd.uscourts.gov; mdl@ohnd.uscourts.gov; CT16-19TPPopioidbwteam@simmonsfirm.com; Kaspar Stoffelmayr <Kaspar.stoffelmayr@bartlitbeck.com>; Kate Swift <kate.swift@bartlitbeck.com>; matthew.ford@bartlitbeck.com; External User - Eric Delinsky <edelinsky@zuckerman.com>; External User - Sasha Miller <smiller@zuckerman.com>; Hynes, Paul B. <phynes@zuckerman.com>; Tina Tabacchi <tmtabacchi@jonesday.com>; Zhou, Jason Z. <jzhou@jonesday.com>; TerriAnne Benedetto <tbenedetto@dugan-lawfirm.com>; James R. Dugan, II <jdugan@dugan-lawfirm.com>; Laura Fitzpatrick <lfitzpatrick@simmonsfirm.com>; EXT-OpioidsTPPDefendants@groups.jonesday.com; tkracht@huntonAK.com; Kracht, Torsten M. <tkracht@hunton.com>; CITERAF@gtlaw.com; External User - Gretchen Miller <millerg@gtlaw.com>; creiser@axinn.com; Duffee, Nicholas D.M. <nduffee@axinn.com>; eyung@axinn.com; doakes@axinn.com; James P. Ellison <jellison@hpm.com>; Burman, David J. (SEA) <dburman@perkinscoie.com>; Roberts, Tyler (SEA) <troberts@perkinscoie.com>; Gregory E. O'Brien <gobrien@cavitch.com>; rice_bscr-law.com <rice@bscr-law.com>; rice@bakersterchi.com; jmatthews@foley.com; Koski, Katy E. <kkoski@foley.com>; Kara.Kapke@btlaw.com; Meredith.White@btlaw.com; Gregory.Franklin@gtlaw.com; monica.brownewell@btlaw.com; Fiterman, Amy R. <amy.fiterman@faegredrinker.com>; Collins, Rory F. <rory.collins@faegredrinker.com>; kerry.bundy@faegredrinker.com; terry.henry@blankrome.com; fiona.steele@blankrome.com; toliver@carrallison.com; dplunkett@mcglinchey.com; Byrd, Timothy <tbyrd@mcglinchey.com>; maria.durant@hoganlovells.com; michael.connelly@troutman.com; hyung.steele@troutman.com; adam.levin@hoganlovells.com; rebecca.mandel@hoganlovells.com; lauren.colton@hoganlovells.com; Ronda.Harvey@Steptoe-Johnson.com; Ashley.Odell@Steptoe-Johnson.com; Chantale.fiebig@weil.com; Daniel.nadratowski@weil.com; paul.lafata@dechert.com; Dory Antullis <DAntullis@rgrdlaw.com>; Paulina doAmaral <pdoamaral@lchb.com>; Drachler, Dan <ddrachler@lchb.com>; Elizabeth Cabraser <ecabraser@lchb.com>; Peter H. Weinberger <PWeinberger@spanglaw.com>; ESI-Opioids <esi-opioids@quinnmanuel.com>; Optum.opioid.team@alston.com; PBM <PBM@listserv.motleyrice.com>; External User - Tara Fumerton <tfumerton@jonesday.com>
Subject: RE: American Federation Consolidated and Amended Third Party Payor Class Action Complaint

Hello all – I'm re-serving this and adding the PBM list serves. Also, please note that I received a bounce back from the Jones Day list serve. Please forward as appropriate. Best, Sheila

From: Sheila Schebek
Sent: Friday, September 20, 2024 12:04 PM
To: david@specialmaster.law; carrie_roush@ohnd.uscourts.gov; mdl@ohnd.uscourts.gov; CT16-19TPPopioidbwteam@simmonsfirm.com; Kaspar Stoffelmayr <Kaspar.stoffelmayr@bartlitbeck.com>; Kate Swift <kate.swift@bartlitbeck.com>; matthew.ford@bartlitbeck.com; External User - Eric Delinsky <edelinsky@zuckerman.com>; External User - Sasha Miller <smiller@zuckerman.com>; Hynes, Paul B. <phynes@zuckerman.com>; Tina Tabacchi <tmtabacchi@jonesday.com>; Zhou, Jason Z. <jzhou@jonesday.com>; TerriAnne Benedetto <tbenedetto@dugan-lawfirm.com>; James R. Dugan, II <jdugan@dugan-lawfirm.com>; Laura

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Subject: American Federation Consolidated and Amended Third Party Payor Class Action Complaint

Dear Special Master Cohen, Ms. Roush, and Counsel: Attached please find the Consolidated and Amended Third Party Payor Class Action Complaint and Jury Demand in the American Federation, etc. case. Best, Sheila

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